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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,215	07/05/2000	Walter Gunzburg	2316.2003-000	4735

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EXAMINER

DAVIS, KATHARINE F

ART UNIT	PAPER NUMBER
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1636

DATE MAILED: 06/15/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,215

Applicant(s)

GUNZBURG ET AL.

Examiner

Katharine F. Davis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 18 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 7-10 and 22 is/are allowed.
- 6) ☒ Claim(s) 2-6, 11-15, 18, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 11.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is in response to the Amendment filed on April 8, 2002. Claims 16, 17 and 19-21 have been cancelled. New claims 22-24 have been added. Claims 1-15, 18 and 22-24 are pending in the instant application.

All of the outstanding rejections of claims 16, 17 and 19-21 are withdrawn in view of the cancellation of the claims. The objection to claim 1 and the rejections of claims 1-21 under 35 U.S.C. 112, second paragraph have been withdrawn in view of the amendments to the claims and the remarks presented by the Applicants in the Amendment filed on April 8, 2002.

Priority

The effective filing date of the instant application is considered January 6, 1998 as Applicant has now complied with the requirement of 35 U.S.C. 119(b).

Claim Objections

Claims 13 and 14 are objected to because of the following informality: the claims do not begin with an article such as "An". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-6, 11-15, 18, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 6 recite the phrase "said promoter". There is insufficient antecedent basis for this phrase in the claims.

Claims 3-5, 23 and 24 recite the phrase "said coding sequence". There is insufficient antecedent basis for this phrase in the claims.

Claim 11 is indefinite in that the components of the retroviral vector system are unclear. This rejection may be overcome by amending the claim as follows:

A retroviral particle produced by transfecting a packaging cell line of a retroviral vector system [comprising] with: [a] a retroviral vector comprising one or more promoters inserted in antisense orientation within the 5' long terminal repeat (LTR) region and one or more coding sequences inserted in antisense orientation within the 3' LTR region, both the promoter as well as the coding sequence inserted in such a way as to ensure that the promoter and the coding sequence become duplicated during the process of reverse transcription in a target cell and appear in the 3' as well as in the 5' LTR region of the resulting provirus in a fashion where the promoter is located upstream of the coding sequence and drives expression of the coding sequence[,] and [b] isolating the resultant retroviral particle [a packaging cell line harboring at least one retroviral construct coding for proteins required for said retroviral vector to be packaged].

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Conclusion

Claims 1, 7-10 and 22 are allowable. Claims 2-6, 11-15, 18, 23 and 24 are rejected. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katharine F. Davis whose telephone number is (703) 605-1195 with direct desktop RightFax (703) 746-5199. The examiner can normally be reached on Monday-Friday (8:30am-5:00pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel can be reached on (703) 305-1998. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 305-1935 for After Final communications. Any inquiry of a general nature or any inquiry concerning the formalities of this application should be directed to Patent Analyst Tracey Johnson whose telephone number is (703) 305-2982.

Katharine F. Davis
June 13, 2002



**REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
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